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HARRINGTON & SMITH 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			TRAN, PAUL P	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,262	<b>Applicant(s)</b> HOLM ET AL.	
	<b>Examiner</b> PAUL P. TRAN	<b>Art Unit</b> 2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) 2,27,32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-26 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments in the remarks filed on 08/16/2010 with respect to claims 1, 3-19, 26 and 28-31 have been considered, but are moot in view of the new ground(s) of rejection. Applicant's arguments with respect to claims 20-25 have been fully considered but they are not persuasive.

Claims 1, 3-26, 28-31 are pending in the application. Claims 2, 27 and 32-33 have been cancelled by the Applicant. Of the above, Claims 1, 20, 22, 26 and 28-31 are independent claims.

In last outstanding office action, Claims 1, 3-11, 13-26 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by "Nagasawa" (US Pat. 6707908) in view of "Yoon" (US Pub. 20020052224).

To better response to the Applicant's argument in detail, the Examiner will discuss each Applicant's argument as below:

1.1. Argument (A), regarding Claim 20, in the third paragraph at page 18 of the Remark, the Applicant argues that: 'Neither Nagasawa nor Yoon discloses or suggests "...an audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to user input **or** after the musical audible alert has been playing for more than a predetermined threshold

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duration, by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion of the musical audible alert.”

In response to Argument (A) above, the Examiner respectfully disagrees with the Applicant's arguments. Nagasawa (ABS; Fig. 1, ref 12, Col. 4: 14-40; Fig. 5a-b, Col. 5: 63-Col. 6: 23) discloses mobile telephone containing memory 12; which is in coordination with the control part 3 in response to user input (Fig. 6, S1, Col. 5: 6-13, Col. 6: 32-36) processes and configures the selected melodies to form a music medley reproduction content. The reproduction of the medley is based on the programming of the plurality of the individual melodies via selecting and connecting the melody indexes of the individual melody in sequences and stored it in the memory register 12 (See Fig. 7, Col. 6: 24-Col. 7: 36 for method of connecting melody sequence). In situation when melody setting mode is ordinary reproduction mode (See Col. 2: 45-51; Col. 8: 7-17), the mobile telephone will play only one piece of music or a single melody during receiving an incoming call like music from CD or a music MD. But, when the melody setting mode is in monitor reproduction mode; the medley melody content is “read out successively” after the first melody is being played by terminating different melodies one after the others per user's commands as programmed by the control part 3 to produce a special piece of music totally different by mixing different melodies in different sequences (See ABS; Col. 2: 52-66; Col. 5: 6-13; Col. 7: 37-52; Col. 8: 18-36). Via the above teachings, Nagasawa's mobile telephone in monitor reproduction mode, actually discloses the limitation of

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terminating the musical audible alert while the musical audible alert is being played in response to the user input; Since in monitor reproduction mode, multiple melody pieces are added to the first audible alert that would rather being played if the ordinary reproduction mode is set and the monitor reproduction mode is not set; Notwithstanding the facts that Yoon (Figs. 2A-D, Figs. 3A-B, Page 2: [0021]) also discloses similar invention wherein the indexes of the music are pre-selected by the user to create melodies for terminating an incoming call ringtone.

Based on at least one of the above reasons, the Examiner respectfully submits that the combination of Nagasawa and Yon disclose all the limitations of Claim 20, since Claim 29 simply says:

“a controller, responsive to the user input, configured to control the audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to the user input **or** after the musical audible alert has been playing for more than a predetermined threshold duration, by playing a replacement musical sequence.”

In Nagasawa, at least one of a musical audible alert was being played before it is replaced by another audible melody sequence in response to the user input to the incoming signal. Claim 20 does not state that terminate the musical audible alert in response to the user input during the ringtone alert is being played. Therefore, the examiner respectfully requests to maintain the rejection of Claim 20 and claim 22, due to its similarity in limitations to Claim 20.

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Subsequently, the dependent claims 21 and 23-25 are also rejected, due to its dependency to the above base claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasawa (US Pat. 6707908, hereinafter "Nagasawa") in view of Yoon (US Pub. 20020052224, hereinafter "Yoon").

2.1. Regarding claims 20 and 22 discloses a mobile telephone (Nagasawa: a terminal device as illustrated in Figs. 1, 3 & 4), comprising: an audio output section configured to alert a user to an incoming call by playing a musical audible alert (Fig. 1, ref 5, 16, 17, Col. 4: 14-29, Col. 4: 30-55, the memory contains melodies or medley melody for playing incoming call announcement); a user input configured to cause an incoming call to be answered (Col. 5: 6-13, the incoming call is accepted using key input part 10); a memory embodying a data file comprising a replacement musical sequence (Fig. 1, ref 7, 12, Col. 4: 14-55,

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memory part 7, 12, containing built-in memory and medley melodies as shown in figure 2); and a controller, responsive to the user input, configured to control the audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to the user input or after the musical audible alert has been playing for more than a predetermined threshold duration, by playing a replacement musical sequence (Fig. 1, ref 3, Col. 4: 14-29, the control part 3 comprising MPU or DSP for processing sound; wherein the control part can terminate the audible alert by playing the medley melodies, the plurality of pieces of music playing in sequences; Figs. 5A-B, Col. 5: 63-Col. 6: 23, the first introduction music is playing at an introduction scan time set to a time period T1, equaling to number of seconds in duration; the musical sequences are also played in response to user's input sequences previously programmed in the control part 3); Nagasawa (Figs. 5A-B, Col. 5: 63-Col. 6: 23) discloses a monitor reproduction mode wherein the pieces of music are reproduced in mixed order, therefore the termination of the music in conclusion is not guaranteed. Thus, Nagasawa fails to disclose where the replacement musical sequence is played as a conclusion to the musical audible alert.

Yoon discloses where the replacement musical sequence is played as a conclusion to the musical audible alert (Figs. 2A-D, melody, i.e. musical sequence is programmed by the user. Figs. 3A-B, Page 2: [0021], a controller 10 determines at step 108 whether the melody selection item is selected by the

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user, and if "Yes" is selected, the selected melody will be used to terminate the ringtone).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Nagasawa's mobile terminal to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

2.2. Regarding Claim 21, Nagasawa and Yoon disclose the apparatus, further comprising a user input, wherein the controller, responsive to the user input, controls the audio output section to terminate the musical audible alert while it is being played (Nagasawa: Fig. 1, ref 3, Col. 4: 56-Col. 5: 13, control part 3 in response to the incoming call by playing the medley melody, multiple of melody pieces in sequence).

2.3. Regarding Claim 23, Nagasawa and Yoon disclose the apparatus wherein the radio transceiver configured to download data representing the replacement musical sequence (Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory).

2.4. Regarding Claim 24, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, comprising a memory storing a file for producing the musical audible alert (Nagasawa: Fig. 1, ref 7, 12, 19).

2.5. Regarding Claim 25, Nagasawa and Yoon disclose the data file further comprising a plurality of conditional branching markers each of which is



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associated with a replacement musical sequence (Nagasawa: Fig. 2, ref 13a-e and in each melody contains a time mark as illustrated in Fig. 4, ref 25 with scan time or Figs. 5A-B, Col. 5: 63-Col. 6: 15, with T1 as scan time and T2 as fade-in/fade-out time).

3. Claims 1, 3-8, 10-11, 13-19, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasawa (US Pat. 6707908, hereinafter "Nagasawa") in view of Yamaki et al. (US Pat. 7067731, hereinafter "Yamaki").

3.1. Regarding claim 1, Nagasawa discloses an apparatus, comprising: a controller; and a memory, the controller, in conjunction with the memory, configured to cause the apparatus to perform actions (Fig. 1, ref 3, 12, Col. 4: 14-29, 30-55, a control part 3 and memory 12 configured to create medley melodies) as follows: cause an audio output section to terminate a musical audible alert while the musical audible alert is being played, in response to user input (Fig. 1, ref 3, 12; Fig. 2; Col. 2: 52-61; Col. 5: 6-13, Col. 6: 32-36; Col. 7: 38-52, in response to user input for receiving an incoming call signal, the control part 3, in monitor reproduction mode, performs a medley melody mixing by terminating multiple of melody sequence to the first scanning melody as programmed in the memory 12) or after the musical audible alert has been playing for more than a predetermined threshold duration (Figs. 5A-B, Col. 5: 63-Col. 6: 23, the first audible music alert is played in a period T1, followed by multiple medley melodies in monitor reproduction mode), by playing a

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replacement musical sequence (Figs. 5A-B, Col. 2: 52-66; Col. 5: 6-13; Col. 7: 37-52; Col. 8: 18-36, in the monitor reproduction mode, the control part 3 will perform a mixed medley melody by switching to fade-in/fade-out multiple set of melodies in different sequences as programmed in memory 12). However, Nagasawa (Figs. 5A-B, Col. 5: 63-Col. 6: 23) discloses in the monitor reproduction mode, wherein the pieces of melodies are reproduced in mixed order; thus Nagasawa fails to disclose where the replacement musical sequence is played as a conclusion of the musical audible alert.

Yamaki discloses the replacement musical sequence is played as a conclusion of the musical audible alert (Yamaki: ABS; Fig. 5, Col. 4: 22-40; Fig. 6, Col. 5: 2-12, 22-48, a simple circuit for conversion an incoming call tone into a musical tone sound with chorus-effect; Col. 1: 48-67; Col. 5: 49-67, when the called party makes a key press to hold the call, the telephone terminates the incoming call sound by generating and transmitting a hold sound with chorus-effect imparted musical tones to the calling party at the conclusion of the incoming call alert).

Similarly Nagasawa (ABS; Col. 10: 11-20) and Yamaki (ABS; Col. 1: 24-39) are both working to provide sound effects for the monophonic sound source of the incoming call monotonous sound to improve the sound quality for the portable telephones. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yamaki's

hold sound chorus-effects to Nagasawa's invention to improve sound quality to the portable telephone devices (Yamaki: Col. 1: 24-39).

3.2. Regarding Claim 3, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the audio output section comprises a synthesizer (Nagasawa: Fig. 1, ref 5, Col. 5: 6-13, the control part 3 comprising a MPU or DSP for processing the audio signal via the sound data processing part, i.e. synthesizer).

3.3. Regarding Claim 4, Nagasawa and Yamaki disclose the apparatus as claimed in claim 3, wherein the synthesizer processes a data stream representative of the musical audible alert in real time (Nagasawa: Figs. 1-2, Col. 4: 56-Col. 5:13, the data processing part processing melody data as audible alert in real time).

3.4. Regarding Claim 5, Nagasawa and Yamaki disclose the apparatus as claimed in claim 4, wherein the audio output section is arranged to vary the data stream in real time to introduce the replacement musical sequence (Nagasawa: Col. 7: 37-52, the sound is reproduced by playing the medley melody stream in real time).

3.5. Regarding Claim 6, Nagasawa and Yamaki disclose the apparatus as claimed in claim 3, wherein the synthesizer is polyphonic (Nagasawa: Col. 8: 18-36, the audio processing part can reproducing a plurality of melody sound, i.e. polymorphic, based on the editing condition).

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3.6. Regarding Claim 7, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the memory is configured to store comprising a memory storing a file for producing the musical audible alert (Nagasawa: Fig. 1, ref 7, 12, 19).

3.7. Regarding Claim 8, Nagasawa and Yamaki disclose the apparatus as claimed in claim 7, wherein the file comprises a series of conditional branch markers, each marker indicating a time for a conditional branch to a replacement musical sequence (Nagasawa: Fig. 2, ref 13a-e and in each melody contains a time mark as illustrated in Fig. 4, ref 25 with scan time or Figs. 5A-B, Col. 5: 63-Col. 6: 15, with T1 as scan time and T2 as fade-in/fade-out time).

3.8. Regarding Claim 10, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is of limited duration (Nagasawa: Figs. 4-5, Col. 5: 42-Col. 6: 4, the melody pieces having length in order of seconds).

3.9. Regarding Claim 11, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is pre-determined (Nagasawa: Fig. 2, Col. 4: 41-55, the medley melody are pre-programmed).

3.10. Regarding Claim 13, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1 wherein the audio output section is configured to terminate the musical audible alert by introducing and playing any one of a plurality of pre-

determined replacement musical sequences (Nagasawa: Fig. 2, Col. 4: 41-Col. 5: 5, the medley melody is playing when the terminal receives an incoming call).

3.11. Regarding Claim 14, Nagasawa and Yamaki disclose the apparatus as claimed in claim 13, wherein each individual one of the plurality of pre-determined replacement musical sequences is associated with a particular portion of the musical audible alert (Nagasawa: Fig. 2, Col. 4: 41-55, the medley melody is formed by combining the existing melody in the memory).

3.12. Regarding Claim 15, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is automatically generated (Nagasawa: Col. 7: 37-52, the melody in the medley memory are played and reproduced as pre-programmed).

3.13. Regarding Claim 16, Nagasawa and Yamaki disclose the apparatus as claimed in claim 15, wherein the generated replacement musical sequence is dependent upon information characterizing the musical qualities of the musical audible alert (Nagasawa: Fig. 7a-i, Col. 8: 46-56, the medley melody quality is dependent to the quality of the original melody in memories).

3.14. Regarding Claim 17, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence varies any one or more of: the arrangement of the musical audible alert; the music of the musical audible alert; the tempo of the musical audible alert; and the volume of the

musical audible alert (Nagasawa: Fig. 2, Col. 4: 41-55, the melody is varied differently by arrangement of melody combination with different pieces of music).

3.15. Regarding Claim 18, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence when played fades out the musical audible alert while it is being played (Nagasawa: Figs. 5a-b, Col. 6: 16-23).

3.16. Regarding Claim 19, Nagasawa and Yamaki disclose the apparatus as claimed in claim 1 operable as a mobile telephone (Nagasawa: Figs. 3-4, Col. 5: 42-51, the apparatus is a portable terminal device).

3.17. Regarding Claim 26, Nagasawa discloses a memory embodying a musical data file, configured to produce a musical audible alert in an electronic device (Fig. 1, ref 3, 12, Col. 4: 14-29, 30-55, in a portable telephone device, a control part 3 and memory 12 are configured to create medley melodies), the musical data file comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence to be played to terminate the musical audible alert while it is being played (Fig. 2, a list of medley melodies comprising multiple sequences of musical melodies connected together with markers and fade-in/fade-out periods (T2 and T4) as shown in Fig. 5a-b, Col. 5: 52-Col. 6: 22), where the replacement musical sequence associated with a particular position of the musical audible alert is being played in response to a user input (Fig. 1, ref 3, 12; Fig. 2; Col. 2: 52-61; Col. 5: 6-13, Col. 6: 32-36; Col.

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7: 38-52, in response to user input for receiving an incoming call signal, the control part 3, in monitor reproduction mode, performs a medley melody by terminating to the first scanning melody with multiple of melody sequences as programmed in the memory 12) or after the musical audible alert has been playing for more than a predetermined threshold duration (Figs. 5A-B, Col. 5: 63-Col. 6: 23, the first audible music alert is played in a period T1, i.e. predetermined threshold time, followed by multiple medley melodies in a predetermined sequences). However, Nagasawa fails to disclose where the replacement musical sequence is played as a conclusion to the musical audible alert.

Yamaki discloses where the replacement musical sequence is played as a conclusion to the musical audible alert (Yamaki: ABS; Fig. 5, Col. 4: 22-40; Fig. 6, Col. 5: 2-12, 22-48, a simple circuit for conversion an incoming call tone into a musical tone sound with chorus-effect; Col. 1: 48-67; Col. 5: 49-67, when the called party makes a key press to hold the call, the telephone terminates the incoming call sound by generating and transmitting a hold sound with chorus-effect imparted musical tones to the calling party as the conclusion of the incoming call alert).

Similarly Nagasawa (ABS; Col. 10: 11-20) and Yamaki (ABS; Col. 1: 24-39) are both working to provide sound effects for the monophonic sound source of the incoming call monotonous sound to improve the sound quality for the portable telephones. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yamaki's

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hold sound chorus-effects to Nagasawa's invention to improve sound quality to the portable telephone devices (Yamaki: Col. 1: 24-39).

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Nagasawa" in view of "Yamaki" and further in view of Yoon (US Pub. 20020052224, hereinafter "Yoon").

4.1. Regarding Claim 9, Nagasawa and Yamaki disclose an apparatus device capable of terminating the musical melodies to a ringtone being played during an incoming call as claimed invention above (Nagasawa: Fig. 2, ref 10, Col. 2: 42-59); However, Nagasawa and Yamaki fail to disclose the apparatus further comprising a radio transceiver configured to download data representing the replacement musical sequence.

Yoon discloses apparatus further comprising a radio transceiver configured to download data representing the replacement musical sequence (Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Nagasawa's and Yamaki's mobile terminal to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).



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5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Nagasawa” in view of “Yamaki” and further in view of Mizuno et al. (US Pub. 2002/0046899 A1, hereinafter “Mizuno”).

5.1. Regarding Claim 12 Nagasawa and Yamaki disclose an electronic device as claimed invention above (Nagasawa: Fig. 2, ref 10, Col. 2: 42-59); However, Nagasawa and Yamaki fail to disclose, wherein the replacement musical sequence is stored in a Musical Instrument Digital Interface track of a Musical Instrument Digital Interface file.

Mizuno discloses an electronic device wherein the replacement musical sequence is stored in a Musical Instrument Digital Interface track of a Musical Instrument Digital Interface file (Mizuno: Fig. 3(a-b), Page 3:[0042], the piece of music is read out from the database 330 of the server and converted to a replacement by a music selection command).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno’s MIDI file storage to Nagasawa’s and Yamaki’s mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

6. Claims 28, 29, 30 and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over “Nagasawa” in view of “Yamaki” and further in view of Cronin (US Pat. 6216016, hereinafter “Cronin”) and further in view of Yoon (US Pub. 20020052224, hereinafter “Yoon”).

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6.1. Regarding Claims 28, 29, 30 and 31, Nagasawa discloses an apparatus, comprising: a controller; and a memory configured to store a plurality of musical audible alerts each of which comprises a replacement musical sequence (Fig. 1, ref 3, 12, Col. 4: 14-29, 30-55, in a portable telephone device, a control part 3 and memory 12 are configured to create medley melodies), the controller, in conjunction with the memory, configured to cause the apparatus to perform actions as follows: detect answering of the incoming call (Figs. 1-2, ref 3, 12, Col. 2: 52-61; Col. 5: 6-13, Col. 7: 38-52, the control part 3 detects and receives an incoming call signal); terminate a musical audible alert while the musical audible alert is being played at the apparatus when the incoming call is answered, (Fig. 1, ref 3, Col. 4: 14-29, the control part 3 comprising MPU or DSP for processing sound; wherein the control part can terminate the audible alert by playing the medley melodies, the plurality of pieces of music playing in sequences; Figs. 5A-B, Col. 5: 63-Col. 6: 23, the first introduction music is playing at an introduction scan time set to a time period T1, equaling to number of seconds in duration; the musical sequences are also played in response to user's input sequences previously programmed in the control part 3). However, Nagasawa fails to disclose detect termination of a time out period that is started upon detection of an initiation of an incoming call; terminate a musical audible alert when at least one termination of the time out period is detected; and the musical audible alert being downloadable from a server to the apparatus via a communication

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network; and play the replacement musical sequence as a conclusion of the musical audible alert.

Yamaki discloses playing the replacement musical sequence as a conclusion of the musical audible alert (Yamaki: ABS; Fig. 5, Col. 4: 22-40; Fig. 6, Col. 5: 2-12, 22-48, a simple circuit for conversion an incoming call tone into a musical tone sound with chorus-effect; Col. 1: 48-67; Col. 5: 49-67, when the called party makes a key press to hold the call, the telephone terminates the incoming call sound by generating and transmitting a hold sound with chorus-effect imparted musical tones to the calling party as the conclusion of the incoming call alert).

Similarly Nagasawa (ABS; Col. 10: 11-20) and Yamaki (ABS; Col. 1: 24-39) are both working to provide sound effects for the monophonic sound source of the incoming call monotonous sound to improve the sound quality for the portable telephones. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yamaki's hold sound chorus-effects to Nagasawa's invention to improve sound quality to the portable telephone devices (Yamaki: Col. 1: 24-39). However, Nagasawa and Yamaki fail to disclose detect termination of a time out period that is started upon detection of an initiation of an incoming call; terminate a musical audible alert when at least one termination of the time out period is detected; and the musical audible alert being downloadable from a server to the apparatus via a communication network.

Cronin discloses detect termination of a time out period that is started upon detection of an initiation of an incoming call (Fig. 5, ref 66, 67, Col. 3: 8-17; Col. 5: 1-27, the portable device detects a keypress as whether the user is answering or placing the call on-hold via selection); terminate a musical audible alert when at least one termination of the time out period is detected (Fig. 5, ref 67, 68, Col. 3: 8-17; Col. 5: 1-27, if the time-out is expired, the system initiates a voice waiting message to terminate the incoming ringtones with a voice message as shown in Fig. 6 to notifying the calling party during wait time);

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Cronin's on-hold waiting voice message to Nagasawa's invention to improve the convenience for user to handle the incoming call at a delay time as needed (Cronin: Col. 1: 21-31). However, Nagasawa and Cronin fail to disclose the musical audible alert being downloadable from a server to the apparatus via a communication network.

Yoon discloses the musical audible alert being downloadable from a server to the apparatus via a communication network (Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Nagasawa's and Cronin's mobile terminal to improve the convenience to easily

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set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL P. TRAN whose telephone number is 571-270-1944 (FAX. 571-270-2944). The examiner can normally be reached on Monday to Thursday 8:00AM - 5:00PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAY MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NAY MAUNG/  
Supervisory Patent Examiner,  
Art Unit 2618

/PAUL P TRAN/  
Examiner, Art Unit 2618

November 8, 2010